

S/N 10/004,623

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

Applicant:	BURFEIND ET AL.	Examiner:	Taylor, Victor J.
Serial No.:	10/004,623	Group Art Unit:	2863
Filed:	December 3, 2001	Docket No.:	14305.6USC
Title:	GENERATION AND DISTRIBUTION OF PERSONALIZED MULTIMEDIA NATURAL PHENOMENOLOGICAL INFORMATION		

MAR 15 2006

OFFICE OF PETITIONS

CERTIFICATE UNDER 37 CFR 1.10

'Express Mail' mailing label number: EV322887254US

Date of Deposit: December 23, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service 'Express Mail Post Office To Addressee' service under 37 CFR 1.10 on the date indicated above and is addressed to the Mail Stop Petition, Commissioner of Patents and Trademarks, Alexandria, Virginia 22313-1450.

By: Teresa Anderson
Name: Teresa Anderson

DECLARATION OF NICHOLAS P. JOHNS

I, Nicholas P. Johns, declare as follows:

1. I am a registered patent attorney and an associate at the law firm of Merchant & Gould P.C., in Minneapolis, Minnesota. My registration number is 48,995.

2. I presently prosecute the above-captioned application for Digital Cyclone, Inc. ("Digital Cyclone").

3. The above-captioned application was filed by the Applicant on December 3, 2001, via legal counsel at Schwegman, Lundberg, Woessner & Kluth ("Schwegman"). This application is assigned to Digital Cyclone, Inc. ("Digital Cyclone").

4. On or about February 28, 2003, Digital Cyclone transferred all of its files from Schwegman to Merchant & Gould, where this case is now being prosecuted.

5. On March 10, 2003, papers were filed with the U.S.P.T.O. granting Merchant & Gould power of attorney in this matter, and directing future correspondence to Merchant & Gould.

6. On March 24, 2003, a first Office Action was mailed. According to the cover sheet associated with the Office Action, the Office Action was mailed to Schwegman.

7. At some point following receipt of the Office Action by Schwegman, the Office Action was received by Merchant & Gould, although I am not certain of when this occurred.

8. At Merchant & Gould, correspondence from the U.S.P.T.O. is routed through a docketing department and is entered into a computerized docketing system to ensure timely response.

9. Because the Office Action was forwarded to Merchant & Gould through an intermediary, it was not identified as correspondence from the U.S.P.T.O., and was never entered into the docketing system. For this reason, Applicant unintentionally failed to respond to the Office Action within the permissible six-month period.

10. At the time the Notice of Abandonment was received, I examined the file jacket, and the Office Action was not found therein. Docket records show that the Office Action was never received.

11. On September 25, 2003, attorneys from Merchant & Gould and representatives from Digital Cyclone attended a meeting. Mr. Gregson and I were present at this meeting.

12. During the meeting of September 25, 2003, strategy regarding Digital Cyclone's patent portfolio was discussed. The above-captioned application figured prominently in that discussion.

13. At no point during the meeting did any person state or suggest in any way that the above-captioned application was abandoned or even at risk of abandonment.

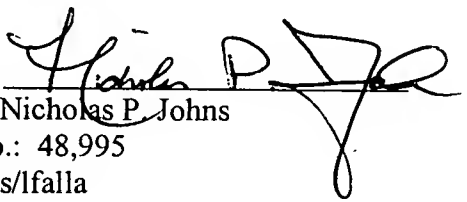
14. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that

statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903
612.332.5300

Dated: 23 Dec. 2003

Signed: 
Name: Nicholas P. Johns
Reg. No.: 48,995
NPJohns/lfalla

S/N 10/004,623

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: BURFEIND ET AL. Examiner: Taylor, Victor J
Serial No.: 10/004,623 Group Art Unit: 2863
Filed: December 3, 2001 Docket No.: 14305.6USC1
Title: GENERATION AND DISTRIBUTION OF PERSONALIZED MULTIMEDIA
NATURAL PHENOMENOLOGICAL INFORMATION

RECEIVED

MAR 15 2006

OFFICE OF PETITIONS

CERTIFICATE UNDER 37 CFR 1.10

'Express Mail' mailing label number: EV322887254US
Date of Deposit: December 23, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service 'Express Mail Post Office To Addressee' service under 37 CFR 1.10 on the date indicated above and is addressed to the Mail Stop Petition, Commissioner of Patents and Trademarks, Alexandria, Virginia 22313-1450.

By: Teresa Anderson
Name: Teresa Anderson

DECLARATION OF RICHARD J. GREGSON

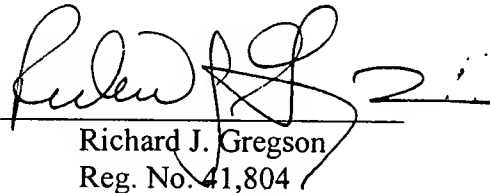
I, Richard J. Gregson, declare as follows:

1. I am a registered patent attorney and was an associate at the law firm of Merchant & Gould P.C., in Minneapolis, Minnesota, until September 30, 2003. My registration number is 41,804.
2. Until my departure from Merchant & Gould, I prosecuted the above-captioned application for Digial Cyclone, Inc. ("Digital Cyclone").
3. On July 9, 2003, I conducted a telephone interview of the Examiner assigned to the above-captioned application, Victor J. Taylor.
4. During my interview of Mr. Taylor, the topic of how Digital Cyclone intended to proceed arose. I informed Mr. Taylor that I would have to discuss this matter with the client. Further, I stated that Digital Cyclone held several related patent applications, and that the response in the above-captioned application needed to be determined in light of issues in the other applications.

5. At no point during my telephone interview did I state or suggest that Digital Cyclone intended to abandon the application or fail to respond to the Office Action in question in this matter.

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such false statements may jeopardize the validity of the application or any patent issued thereon.

18 Dec 2003
Date

Signed: 
Richard J. Gregson
Reg. No. 41,804

S/N 10/004,623

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: BURFEIND ET AL. Examiner: Taylor, Victor J.
Serial No.: 10/004,623 Group Art Unit: 2863
Filed: December 3, 2001 Docket No.: 14305.6USC1
Title: GENERATION AND DISTRIBUTION OF PERSONALIZED MULTIMEDIA
NATURAL PHENOMENOLOGICAL INFORMATION

RECEIVED

MAR 15 2006

OFFICE OF PETITIONS

CERTIFICATE UNDER 37 CFR 1.10

'Express Mail' mailing label number: EV322887254US

Date of Deposit: December 22, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service 'Express Mail Post Office To Addressee' service under 37 CFR 1.10 on the date indicated above and is addressed to the Mail Stop Petition, Commissioner of Patents and Trademarks, Alexandria, Virginia 22313-1450

By:

Name: Teresa Anderson

Teresa Anderson

DECLARATION OF JODI GANDEL-KLEIN IN SUPPORT OF PETITION
TO WITHDRAW HOLDING OF ABANDONMENT

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, Jodi Gandel-Klein, declare and state:

1. I am the Docketing Supervisor for Merchant & Gould P.C., the law firm prosecuting the above-referenced patent application. I have been Docketing Supervisor since November 17, 1997.

2. I am responsible for overseeing all incoming Patent and Trademark Office communications and oversee those responsible for seeing that these communications are properly docketed and entered into our computerized docketing system.

3. Incoming mail received by the firm is sorted into correspondence that may require docketing and correspondence that does not require docketing. The correspondence that may

require docketing is further distinguished between correspondence from the Patent and Trademark Office and other correspondence. After the incoming mail has been date stamped to show date of receipt, a member of the firm's docketing department retrieves the mail that may require docketing and brings it to the docketing department. The appropriate personnel then docket the correspondence.

4. If such an Office Action had been received, the communication would have been docketed by entering into the computerized docket system the date the Office Action was mailed. The computerized docket system would then calculate the due dates for response to the Office Action up to the six month statutory deadline. The first page of the Office Action would then be initialed by the person docketing the Office Action to indicate that it had been docketed and forwarded to the attorney responsible for the patent application for further action, e.g., reporting to the client, etc.

5. I have reviewed the records in the firm's docket system and find no entry for the Office Action for this application, nor any other evidence that would suggest that the Office Action actually was received by the firm.

6. In view of the above, I believe that the Office Action for this application was never delivered to the docketing department for docketing.

7. The docket record for U.S. Patent Application Serial No. 10/004,623 is enclosed herewith as Exhibit A.

8. I declare that all statements made herein of my own knowledge are true and that all statements made on information belief are believed to be true; and further that these statements were made with knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18, of the United States Code and that such willful, false statements may jeopardize the validity of the application or document or any registration resulting therefrom.

Dated: Dec 23, 2003

By: Jodi Gandel-Klein
Jodi Gandel-Klein

PCMaster v3.03.02 - Merchant & Gould - [Patent]

File Edit Records Utilities Tools Help

Docket Number: 14305.0006USC1
Country: United States
Case Type: Regular
Relation Type: Continuation
Filing Type: National
Filing Number: C1

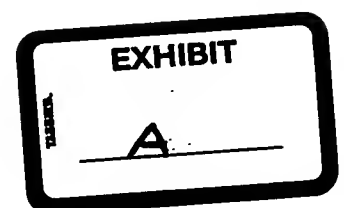
Attorney: EGS - ERIK G SWENSON
Attorney #2: NPJ - NICHOLAS P. JOHNS
Client: DIGITAL CYCLONE, INC.
Assignee: DIGITAL CYCLONE, INC.
Previous Owner:
Client Reference:

GENERATION AND DISTRIBUTION OF PERSONALIZED MULTIMEDIA NATURAL PHENOMENOLOGICAL

Inventors	Licenses	Add Info	Related Info	Attorney	Remarks
Filing Date	Related Party Info	Actions	Client Info	Expenses	Examination
Action	Action Due Date	Completed Date	Action Notes	Responsible Atty #1	
Published	02/13/2001	02/13/2001			
IDS DUE	03/03/2002	03/03/2002	SUPPL IDS FILED		
CLM PRIORITY-119/120	04/03/2002	04/03/2002			
STATUS	04/11/2003	04/11/2003			
Status/Address Check	10/11/2003	09/30/2003			
REVIVE APPLN/PTA	11/24/2003	11/24/2003	SEE NOT OF ABAN		
REVIVAL 6 MO	03/24/2004				
Status/Address Check	04/11/2004	10/01/2003			
FINAL REVIVAL	09/24/2004				
TRANSFER					
Small Entity Status			03/10/2003		

Created: 03/11/2003 Updated: 11/24/2003 3:38 PM RB74 HNK

Start 10:15 AM



PCMaster v3.03.02 - Merchant & Gould - [Patent]			
File Edit Records Utilities Tools Help			
File Edit Records Utilities Tools Help			
Docket Number: 14305.0006USC1		Attorney: EGS - ERIK G SWENSON	
Country: United States		Attorney #2: NPJ - NICHOLAS P. JOHNS	
Case Type: Regular		Client: DIGITAL CYCLONE, INC.	
Relation Type: Continuation		Assignee: DIGITAL CYCLONE, INC.	
Filing Type: National		Previous Owner:	
Filing Number: C1		Client Reference:	
GENERATION AND DISTRIBUTION OF PERSONALIZED MULTIMEDIA NATURAL PHENOMENOLOGICAL			
Inventors: Licensees: Add Information: Related Information: Remarks:			
Filing Data: Related Party Information: Actions: Client Information: Expenses: Expenses:			
Status: Filed		First Filing Date: 08/13/1999	
Sub Status: Pending		Parent Filing Date: 08/13/1999	
Parent Country:		Parent Grant Date:	
Parent Number:		Ind. Claims/Designs:	
Total Claims:		Filing Date: 12/03/2001	
Application Number: 10/004623		Issue Date:	
Patent Number:		Publication Date:	
Publication Number:		Expiration Date:	
Assigned:		Tax Base Date:	
Convention Type:		Next Tax Date:	
Responsible Office: Minneapolis/St. Paul			
Created: 03/11/2003 Updated: 11/24/2003 3:38 PM By: LHNK			
Start 10:16 AM			

S/N 10/004,623

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	BURFEIND ET AL.	Examiner:	Taylor, Victor J.
Serial No.:	10/004,623	Group Art Unit:	2863
Filed:	December 3, 2001	Docket No.:	14305.6USC1
Title:	GENERATION AND DISTRIBUTION OF PERSONALIZED MULTIMEDIA NATURAL PHENOMENOLOGICAL INFORMATION		

CERTIFICATE UNDER 37 CFR 1.10

'Express Mail' mailing label number: EV322887254US
Date of Deposit: December 23, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service 'Express Mail Post Office To Addressee' service under 37 CFR 1.10 on the date indicated above and is addressed to the Mail Stop Petition, Commissioner of Patents and Trademarks, Alexandria, Virginia 22313-1450

By: Teresa Anderson
Name: Teresa Anderson

RESPONSE

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Office Action mailed March 24, 2003. Applicants are filing a Petition to Withdraw Holding of Abandonment concurrently with this response. It is believed that an extension of time and fee are not necessary in light of the above petition. If the Examiner determines that a fee is necessary, please charge Deposit Account No. 13-2725

Applicants thank the Examiner for the allowance of claims 18-50. Applicants previously cancelled claims 1-17, 54 and 67-69. With respect to the Examiner's rejection of claims 51-53 and 55-66, Applicants herewith cancel claims 51-53 and 55-66.

It is believed that this application is now in condition for allowance and a notice to that effect is earnestly solicited.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903
612.332.5300

Dated: 23 Dec. 2003



Signed: Nicholas P. Johns
Name: Nicholas P. Johns
Reg. No.: 48,995
NPJohns:PLSdb



EV 322887254 US

RECEIVED

MAR 15 2006

Mailing Label
PSN 11-F June 2002EXPRESS
MAIL

UNITED STATES POSTAL SERVICE®

Post Office To Addressee

ORIGIN (POSTAL USE ONLY)		
PO ZIP Code	Day of Delivery <input type="checkbox"/> Next <input type="checkbox"/> Second <input type="checkbox"/>	Flat Rate Envelope
Date In Mo. Day Year	<input type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM	Postage \$
Time In <input type="checkbox"/> AM <input type="checkbox"/> PM	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Return Receipt Fee
Weight lbs. ozs.	Int'l Alpha Country Code	COD Fee Insurance Fee
No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Acceptance Clerk Initials	Total Postage & Fees \$

DELIVERY (POSTAL USE ONLY)		
Delivery Attempt	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Mo. Day		
Delivery Attempt	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Mo. Day		
Delivery Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Mo. Day		
<input type="checkbox"/> WAIVER OF SIGNATURE (Domestic Only) Additional merchandise insurance is void if waiver of signature is requested. I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.		
NO DELIVERY <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday		

CUSTOMER USE ONLY
METHOD OF PAYMENT:
Express Mail Corporate Acct. No. **X551962**

Federal Agency Acct. No. or
Postal Service Acct. No.

FROM: (PLEASE PRINT) PHONE **612, 332 5300**

MERCHANT GOULD
80 S 8TH ST STE 3300
MINNEAPOLIS MN 55402-2102
USA

TO: (PLEASE PRINT) PHONE ()

MAIL STOP PETITION
COMMISSIONER FOR PATENTS
PO BOX 1450
ALEXANDRIA VA 22313-1450



EV 322887254 US

EXPRESS
MAIL

UNITED STATES POSTAL SERVICE®

Post Office To Addressee

Customer Copy
Label 11-F June 2002

ORIGIN (POSTAL USE ONLY)		
PO ZIP Code 55401	Day of Delivery <input type="checkbox"/> Next <input checked="" type="checkbox"/> Second <input type="checkbox"/>	Flat Rate Envelope
Date In Mo. Day Year 12-23-03	<input type="checkbox"/> 12 Noon <input checked="" type="checkbox"/> 3 PM	Postage \$
Time In <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM 19:00	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Return Receipt Fee
Weight lbs. ozs.	Int'l Alpha Country Code	COD Fee Insurance Fee
No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Acceptance Clerk Initials CO	Total Postage & Fees \$ 13.65

DELIVERY (POSTAL USE ONLY)		
Delivery Attempt	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Mo. Day		
Delivery Attempt	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Mo. Day		
Delivery Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Mo. Day		
<input type="checkbox"/> WAIVER OF SIGNATURE (Domestic Only) Additional merchandise insurance is void if waiver of signature is requested. I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.		
NO DELIVERY <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday		

CUSTOMER USE ONLY
METHOD OF PAYMENT:
Express Mail Corporate Acct. No. **X551962**

Federal Agency Acct. No. or
Postal Service Acct. No.

FROM: (PLEASE PRINT) PHONE **612, 332 5300**

MERCHANT GOULD
80 S 8TH ST STE 3300
MINNEAPOLIS MN 55402-2102
USA

TO: (PLEASE PRINT) PHONE ()

MAIL STOP PETITION
COMMISSIONER FOR PATENTS
PO BOX 1450
ALEXANDRIA VA 22313-1450

PRESS HARD.
You are making 3 copies.

FOR PICKUP OR TRACKING CALL 1-800-222-1811 www.usps.com



S/N 10/155,418

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	BURFEIND ET AL.	Examiner:	V. TAYLOR
Serial No.:	10/004,623	Group Art Unit:	2863
Filed:	DECEMBER 3, 2001	Docket No.:	14305.6USC1
Title:	GENERATION AND DISTRIBUTION OF PERSONALIZED MULTIMEDIA NATURAL PHENOMENOLOGICAL INFORMATION		

CERTIFICATE UNDER 37 CFR 1.8:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, Washington, D.C. 20231 on January 27, 2005.

By: 
Name: Sage M. Krue

COMMUNICATION REQUESTING WITHDRAWAL OF NOTICE OF
ABANDONMENT

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED
MAR 15 2006
OFFICE OF PETITIONS

Dear Sir:

The purpose of this Communication is to direct your attention to the fact that on December 23, 2003, a Petition Under 37 C.F.R. 1.181 for Withdrawal of Holding of Abandonment was made to your attention. I will briefly review the facts for you. On March 24, 2003, the U.S.P.T.O. mailed a first Office Action to the incorrect address. On October 6, 2003, we received a Notice of Abandonment. On December 23, 2003, a Petition for Withdrawal of Holding of Abandonment was made. A copy of this Petition is included herein in its entirety at Exhibit 1. A copy of the Express Mail label is also included in Exhibit 1 showing that the Petition was mailed on December 23, 2003. We received our return post card from the U.S.P.T.O. on January 6, 2004. A copy of the front and back side of this post card is also included for your reference at Exhibit 2. It is interesting to note that the U.S.P.T.O. date stamped this post card "DEC 22 2003". Obviously, this is an incorrect date, since we filed the Petition on December 23, 2003.

On February 17, 2004, PAIR indicated that the U.S.P.T.O. lost the file for the above referenced case. On March 3, 2004, PAIR indicated that the U.S.P.T.O. had found the file. It is now January, 2005, and we have not received any communication on the Petition for Withdrawal of Holding of Abandonment from the U.S.P.T.O. In addition, the undersigned has made numerous attempts to contact the U.S.P.T.O. regarding this matter, but has been unsuccessful at getting any response.


This case is plagued with errors by the U.S.P.T.O. First, the U.S.P.T.O. mailed the Office Action to the wrong attorneys at the wrong address. Then, the U.S.P.T.O. date stamped our return post card with a date before we filed the Petition for Withdrawal. Then, the U.S.P.T.O. received our Petition, but never responded to it. In addition, the U.S.P.T.O. lost the above referenced case. Now, the Applicants respectfully plead with the U.S.P.T.O. to withdraw the Notice of Abandonment and allow the prosecution of this patent to continue. Applicants have lost valuable time in getting this patent to issue.

Should any further communication be required to resolve this matter, the Commissioner is urged to contact the undersigned by telephone at the number below to expeditiously bring this matter to a close.



MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903
612.332.5300

Dated: January 27, 2005

Signed: 
Name: Erik G. Swenson
Reg. No.: 45,147
EGS/smk

Receipt is hereby acknowledged for the following in the U.S. Patent and Trademark Office:
In re Application of: BURFEIND ET AL.
For: GENERATION AND DISTRIBUTION OF PERSONALIZED MULTIMEDIA NATURAL
PHENOMENOLOGICAL INFORMATION
Docket No.: 14305.6USC1
Filed: DECEMBER 3, 2001

Serial No.: 10/004,623
Due Date:

Date Mailed: January 27, 2005

- ☒ Transmittal Sheet in duplicate containing Certificate of Mailing
- ☒ Communication Requesting Withdrawal of Notice of Abandonment, Exhibits 1 and 2
- ☒ Return postcard

Patent

ESwenson/smk

RECEIVED

MAR 15 2006

**OFFICE OF PETITIONS
RECEIVED**

MAR 15 2006

OFFICE OF PETITIONS

Receipt is hereby acknowledged for the following in the U.S. Patent and Trademark Office:
In re Application of: BURFEIND ET AL.
For: GENERATION AND DISTRIBUTION OF PERSONALIZED MULTIMEDIA NATURAL
PHENOMENOLOGICAL INFORMATION
Docket No.: 14305.6USC1
Filed: DECEMBER 3, 2001

Serial No.: 10/004,623
Due Date:

Date Mailed: January 27, 2005

- ☒ Transmittal Sheet in duplicate containing Certificate of Mailing
- ☒ Communication Requesting Withdrawal of Notice of Abandonment, Exhibits 1 and 2
- ☒ Return postcard

Patent

ESwenson/smk

